IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.26086 of 2008
PREM KUMAR JHA
Son of Late Abhay Narayan Jha
Resident of village- Thengha, P.S.- Sakatpur
District- Darbhanga
At present E-653, West Binod Nagar, New Delhi
Versus
1. THE STATE OF BIHAR
2. SMT. PUNAM DEVI, WIFE OF Prem Kumar Jha,
at present c/o Sri Kalikant Jha, resident of Jhanjharpur,
P.S.- Jhanjharpur, District- Madhubani.

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6 **21.11.2008** Heard learned counsel for the petitioner, State and the opposite party no.2 on whose behalf a rejoinder to the supplementary affidavit filed on behalf of the petitioner has been filed today.

Petitioner, who is the husband, is an accused in a case registered for the offences under section 498A of the Indian Penal Code.

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The allegation against the petitioner is of demand and torture and ultimately driven out the opposite party no.2.

It has been submitted on behalf of the petitioner that the allegation of demand of dowry and torture is absolutely after thought, as a matter of fact, the complainant got aggrieved on account of the marriage of the petitioner with one Beli Devi. It is further submitted that the said Beli Devi was also made accused in the complaint, however cognizance was not taken against her. It is further submitted that the marriage in question in fact

was performed with the consent of the complainant in terms of the agreement said to have been signed by the complainant, as contained in Annexure-2 to the petition. Notwithstanding the above, it is submitted that the petitioner has always remained ready and in fact even now is ready to keep the complainant decently as a legally wedded wife. It is further contended that as stated in the supplementary affidavit that the petitioner is agreeable that in case the complainant is not prepared to live with this petitioner under the same roof the petitioner has offered a separate house for her situated in Noida with liberty that the complainant may reside or realize rent from the said house.

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Learned counsel appearing for the opposite party no.2 submits that the complainant is neither prepared to live with this petitioner nor the offer given by the petitioner is acceptable to her. It is further submitted that house in which the petitioner is living at Delhi was in fact financed by the father of the complainant. It is further submitted that the opposite party no2 never consented for the marriage and the document annexed as Annexure-2 purported to be an agreement signed by the petitioner and other persons of the village, is a forged and fabricated document.

Learned Addl. P.P. appearing for the State

submits that it appears from the averments of the petitioner and the opposite party that they are unable to reconcile.

Having considered the submissions, as noticed above, and in the facts and circumstances of the case, it is directed that in the event of arrest or surrender within a period of four weeks from today, the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Sub Divisional Judicial Magistrate, Jhanjharpur, Madhubani, in connection with C.R.No. 103 of 2007, T.R.No. 2305 of 2007, subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure.

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Manish/- **(Shailesh Kumar Sinha,J.)**